



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

C-475-833

Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products From Italy:  
Preliminary Affirmative Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the “Department”) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain corrosion-resistant steel products (“corrosion-resistant steel”) from Italy. The period of investigation is January 1, 2014, through December 31, 2014. We invite interested parties to comment on this preliminary determination.

DATES: Effective [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Bob Palmer, Irene Gorelik, and Katie Marksberry, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202.482.9068, 202.482.6905, and 202.482.7906, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The products covered by this investigation are corrosion-resistant steel products from Italy. For a complete description of the scope of this investigation, see Appendix II.

## Methodology

The Department is conducting this countervailing duty (“CVD”) investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the “Act”). For a full description of the methodology underlying our preliminary conclusions, see the Preliminary Decision Memo.<sup>1</sup> A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memo is a public document and is on file electronically in the Central Records Unit, room B8024 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“ACCESS”). ACCESS is available to registered users at <https://access.trade.gov> and it is available to all parties in the CRU. In addition, parties can directly access a complete version of the Preliminary Decision Memo on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Decision Memo and the electronic versions of the Preliminary Decision Memo are identical in content.

## Adverse Facts Available

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply “facts otherwise available” if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified

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<sup>1</sup> See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Italy : Decision Memorandum for the Preliminary Determination,” dated concurrently with this notice (“Preliminary Decision Memo”).

as provided by section 782(i) of the Act. Furthermore, section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information.

In this case, the Department twice requested information with respect to the *Industrial Development Grants Under Law 488/92*, *Technological Innovation Grants and Loans Under Law 46/82*, and *Certain Social Security Reductions and Exemptions (“Sgravi” Benefits)* from the Government of Italy. The Government of Italy withheld necessary information with respect to each of these programs, failed to provide information in the form and manner requested, and did not provide requested information by the deadlines for submission of the information, as explained in more detail in the Preliminary Decision Memo. Furthermore, the Department has concluded that the Government of Italy did not cooperate to the best of its ability in providing the requested information. Accordingly, pursuant to sections 776(a) and (b) of the Act, we have preliminarily determined that for each of these programs, the application of adverse facts available is warranted. For the *Industrial Development Grants Under Law 488/92* and *Technological Innovation Grants and Loans Under Law 46/82* programs, we have preliminarily determined as adverse facts available that these programs are *de facto* specific, in accordance with section 771(5A)(D)(iii) of the Act. For the *Sgravi Benefits*, we have preliminarily determined that the reduced tax revenue due to the Government of Italy under these provisions constitute financial contributions within the meaning of section 771(5)(D)(ii) of the Act as revenue forgone. We have also preliminarily determined that revenue forgone under these provisions is either *de facto* specific, in accordance with section 771(5A)(D)(ii) of the Act, or regionally specific, in accordance with section 771(5A)(D)(iv) of the Act.

In addition, one company selected as a mandatory respondent, Ilva S.p.A., did not respond to the Department’s questionnaires or participate in the investigation. Accordingly, as adverse facts available, pursuant to sections 776(a) and (b), we have preliminarily determined that Ilva benefitted from certain countervailable programs during the POI and calculated a rate for Ilva based on those programs. For further information, see “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memo.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated. We preliminarily determine the countervailable subsidy rates to be:

<b>Company</b>	<b>Subsidy Rate (percent)</b>
Acciaieria Arvedi S.p.A., Finarvedi S.p.A., Arvedi Tubi Acciaio S.p.A., Euro-Trade S.p.A., and Siderurgica Triestina Srl., collectively, the Arvedi Group	0.38 ( <u>de minimis</u> )
Marcegaglia S.p.A. and Marfin S.p.A., the Marcegaglia Group	0.04 ( <u>de minimis</u> )
Ilva S.p.A.	38.41
All Others	13.06

In accordance with section 703(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of corrosion-resistant from Italy as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register, except for the Arvedi Group and the Marcegaglia Group, as described below. Section 703(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from

warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. On October 29, 2015, we preliminarily found that critical circumstances exist for imports produced or exported by Ilva S.p.A.<sup>2</sup> For Ilva S.p.A., in accordance with section 703(e)(2)(A) of the Act, suspension of liquidation of corrosion-resistant steel from Italy, as described in the “Scope of the Investigation” section, shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice, the date suspension of liquidation is first ordered. Because we preliminarily found critical circumstances do not exist for all other producers and exporters, we will begin suspension of liquidation for such firms on the date of publication of this notice in the Federal Register. Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the amounts indicated above. Further, because we reached a negative preliminary countervailing duty determination for the Arvedi Group and the Marcegaglia Group, we will not instruct CBP to suspend liquidation of entries for these companies.

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an “all-others” rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies’ exports of the subject merchandise to the United States. Under section 705(c)(5)(i) of the Act, the all-others rate excludes zero and de minimis rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts

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<sup>2</sup> See Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances, 80 FR \_\_\_\_ (November \_\_, 2015) (signed October 29, 2015).

otherwise available. Where the rates for the individually investigated companies are all zero or de minimis, or determined entirely using facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an all-others rate using “any reasonable method.”

Where the countervailable subsidy rates for all of the individually investigated respondents are zero or de minimis or are based on AFA, the Department's practice, pursuant to 705(c)(5)(A)(ii), is to calculate the all others rate based on a simple average of the zero or de minimis margins and the margins based on AFA. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the “all-others” rate by weight averaging the rates of the two individually investigated respondents plus the margin based on AFA, because Ilva failed to report volume data that would enable the Department to determine the all-others rate based on a weighted-average. Therefore, and consistent with the Department’s practice, for the “all-others” rate, we calculated a simple average of the two responding firms’ rates and the AFA rate for the non-responsive company.<sup>3</sup>

#### Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

#### International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission (“ITC”) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the

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<sup>3</sup> See, e.g., Countervailing Duty Investigation of Chlorinated Isocyanurates from the People’s Republic of China: Preliminary Determination and Alignment of Final Determination With Final Antidumping Determination, 79 FR 10097 (February 24, 2014); see also, Non-Oriented Electrical Steel From Taiwan: Final Affirmative Countervailing Duty Determination, 79 FR 61602 (October 14, 2014) and accompanying IDM at VIII. Calculation of the All Others Rate.

ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

#### Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.<sup>4</sup> Interested parties may submit case and rebuttal briefs,<sup>5</sup> and request a hearing.<sup>6</sup> For a schedule of the deadlines for filing case briefs, rebuttal briefs, and hearing requests, see the Preliminary Decision Memorandum.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

November 2, 2015  
Date

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<sup>4</sup> See 19 CFR 351.224(b).

<sup>5</sup> See 19 CFR 351.309(c) and (d).

<sup>6</sup> See 19 CFR 351.510.

## **Appendix I**

### List of Topics Discussed in the Preliminary Decision Memo

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Preliminary Determination of Critical Circumstances
- VI. Injury Test
- VII. Use of Facts Otherwise Available and Adverse Inferences
- VIII. Subsidies Valuation
- IX. Benchmarks and Discount Rates
- X. Analysis of Programs
- XI. Calculation of All Others Rate
- XII. Disclosure and Public Comment
- XIII. Conclusion



## Appendix II

The products covered by this investigation are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (e.g., in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (e.g., in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (e.g., in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, i.e., products which have been "worked after rolling" (e.g., products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (e.g., the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. If steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin free steel"), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

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